



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of

David G. Luckstead

Serial Number 10/039,097

Filed: January 2, 2002

For: CONVERTIBLE CANE

Art Unit 3635

Examiner Robert J. Canfield

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8/31/04  
Date

G. Turner Moller  
G. Turner Moller  
Reg. No. 22,978  
Canfield  
Signature

Response

Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

Dear Sir:

This is in response to the Official Office Action of August 23, 2004.

The Final Rejection in this case was mailed November 18, 2003. On February 17, 2004, applicant responded by filing a Request for Continuing Examination and an Amendment. A copy of the Request for Continuing Examination and the post card stamped by the Mail Room on February 17, 2004 is attached.

In the Office Action of August 23, 2004, the Examiner refuses to enter the amendment stating that the amendment raises new issues

and the period for reply expires three months from the date of the Final Rejection. In the absence of the Request for Continued Examination and the payment of the \$385 fee, this would be an appropriate action on the part of the Examiner. However, in the face of the Request for Continued Examination and the payment of the fee of \$385, this is not an appropriate response by the Examiner.

In the event the Examiner continues to refuse entry to the pending amendment and continues to treat this application as if it were under Final Rejection, it is respectfully requested that the Examiner explain why this application is not subject to the Continued Examination provisions of the MPEP Section 706.07(h).

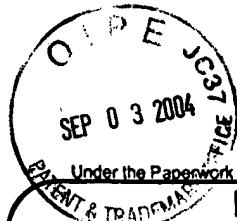
It is submitted that this application is in condition for allowance and early steps toward that end are earnestly solicited.

Respectfully submitted,



G. Turner Moller  
Registration 22,978

711 North Carancahua, Suite 720  
Corpus Christi, Texas 78475  
361/883-7257  
August 29, 2004



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PTO/SB/30 (08-03)

Approved for use through 07/31/2006. OMB 0851-0031

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Request  
For  
Continued Examination (RCE)  
Transmittal

Address to:  
Mail Stop RCE  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Application Number	10/039,097
Filing Date	1/2/02
First Named Inventor	DAVID G. LUCKSTEAD
Art Unit	3637
Examiner Name	JOHN P. FITZGERALD
Attorney Docket Number	

This is a Request for Continued Examination (RCE) under 37 CFR 1.114 of the above-identified application.

Request for Continued Examination (RCE) practice under 37 CFR 1.114 does not apply to any utility or plant application filed prior to June 8, 1995, or to any design application. See Instruction Sheet for RCEs (not to be submitted to the USPTO) on page 2.

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<b>SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED</b>			
Name (Print/Type)	<i>G. TURNER MUELLER</i>	Registration No. (Attorney/Agent)	22978
Signature	<i>G. Turner Mueller</i>	Date	3/17/84

**CERTIFICATE OF MAILING OR TRANSMISSION**

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop RCE, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450 or facsimile transmitted to the U.S. Patent and Trademark Office on the date shown below.

Print on the date shown below.  
Name (Print/Type) G. TURNER MOLLER  
Signature G. Turner Moller Date 2/17/84

This collection of information is required by 37 CFR 1.114. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of:  
David G. Luckstead  
For: CONVERTIBLE CANE  
Filed: 1/2/02  
S.N. 10/039,097  
Examiner: John P. Fitzgerald



Please find enclosed:

Amendment  
Request for Continued Examination Transmittal  
Check in amount of \$385

